



Memorandum

To: Honorable Antonio Vazquez, Chairman
Honorable Mike Schaefer, Vice Chair
Honorable Ted Gaines, First District
Honorable Malia M. Cohen, Second District
Honorable Betty T. Yee, State Controller

Date: August 17, 2021

/s/ B Fleming

From: Brenda Fleming, Executive Director

Subject: ***Board Meeting, August 24-25, 2021 – Administrative Session
Item K.1.c. Board Work Group Structure***

Introduction

The State Board of Equalization (BOE or Board) is constitutionally and statutorily charged with the oversight of California's property tax system, including prescribing rules to govern the 58 County Assessors and local boards of equalization to ensure California's property tax assessment practices are uniform and consistent statewide. Additionally, the Board directly assesses the property of regulated railroads and certain public utilities, collects the Private Railroad Car Tax, hears certain property tax appeals (State-Assessment Appeals, Private Railroad Car Tax Appeals, Publicly Owned Property Assessment Appeals, and Appeals of Denials of Organizational or Supplemental Clearance Certificates necessary for the Welfare Exemption), administers the Alcoholic Beverage Tax program, and jointly administers the Tax on Insurers, in partnership with the State Controller and the Department of Insurance. The BOE serves a critical role in property tax administration by promoting fair and equitable assessments to protect the tax dollars that schools, local communities, and the State of California depend on.

The Board is committed to working collaboratively with state leaders and local government officials to ensure that Californians receive fair and equitable taxation. To stay abreast of matters and issues that impact the state's property tax system, the impact on local government budgets, and ensuring due process is maintained for taxpayers, this Board has employed its public meeting structure, scheduled throughout 2019 and 2020 as Informational Hearings and Work Group Hearings, to engage with taxpayers, County Assessors, County Assessment Appeals Boards and Boards of Supervisors, local government officials, tax advisors and practitioners, tax policy experts, and many other stakeholders. Such discussions have highlighted emerging property tax matters, statewide property tax administration issues, and contributed to property tax policy and procedural outcomes. The Board has incorporated such testimony and discussions into its larger body of work, with notable outcomes including: the development and refinement of possible legislative fixes, meaningful data and input regarding the Board's regulations, guidance, and practices, and increasing awareness of issues facing taxpayers across the 58 counties.

The following proposal outlines the implementation of the Board's Work Group structure, including recommended guidelines and procedures for its scheduling and operations.

Background

The Board has used a committee structure for over 60 years.^A

Early on, committees adapted from year to year to meet the business and subject matter needs of the BOE. The committee structure allowed Board Members to partner and interact with agency program staff, having direct input and participation in driving projects important to the agency. At times, the committee would move forward issues or recommendations for presentation and consideration by the full Board for adoption. At other times, the committees would serve as advisory bodies, providing the agency recommendations and direction on specific staff initiatives relevant to the agency's day-to-day work. Annually, the Board created the desired committees and the Board's Chair appointed committee chairs.

Committees met several times per year, depending on the topic and purpose. After a committee meeting, the committee chair (or designated committee member) reported on the status of committee initiatives at the following regular Board Meeting, presenting the committee's recommended actions to the Board. Committee contributions have included recommendations to: respond to changes in technology, address agency needs, implement new legislation, recommend Board positions on pending legislation, create, amend, or delete regulations, and identify process improvement opportunities for Board programs.

By the 1990s, the Board consistently used four specific committees:^B

1. Legislative Committee
2. Customer Service and Administrative Efficiency Committee
3. Business Taxes Committee
4. Property Tax Committee

These four committees were each comprised of a Committee Chair (Board Member), the Board's Chair (who served as an ex officio Committee Member), and other designated Committee Members (varied based on project goals, but included other Board Members, Board Members' staff, or other agency program staff, as needed/relevant to committee objectives).^C In addition, the Board Proceedings Division, the related program Deputy Director, the Legal Department, and agency planning were necessary to ensure that committee meetings were compliant with the Bagley-Keene Open Meeting Act, that committee workplan goals were achievable, and items were placed on each committee's agenda with supporting information. Member staff and committee liaisons (often a Deputy Director or designee) invested substantial efforts to ensure items were fully developed for committee discussion. Other stakeholders were often invited to provide testimony or collaborate. In addition, any interested party or member of the public was able to attend the committee meeting.

Committee Structure Transition

After the enactment of Assembly Bill 102 (AB 102) in July 2017, the committee structure was reevaluated by the Executive Director.^D Subsequently, a recommendation was presented to the Board to discontinue using committees. Instead, the matters that had been assigned to the Property Tax Committee, would now go directly before the Board in the form of staff presentations, issue papers, and memoranda for Board discussion and adoption.^E The Board adopted the Executive Director's recommendation on September 26, 2017.

The Board's decision acknowledged that the continued use of prior committee processes was in direct conflict with the intent of AB 102 (2017) and related provisions in Government Code.^F Specifically, the prior committee structure involved Board Members regularly directing agency

staff to generate agendas, materials, presentations, and planning logistics in support of committee meetings, which was directly inconsistent with the AB 102 prohibition on Members directing or assigning work to agency staff. Instead, agency staff would continue to hold Interested Parties' Processes to engage with stakeholders (e.g. County Assessors, industry, agents, taxpayers, and other interested parties) to prepare items for consideration at future Board Meetings.

The Board's Recent Efforts to Engage Stakeholders through Public Meetings

Beginning in 2019, the Board held a series of Statewide Informational Hearings to address emerging public policy issues that could impact the operations of the Board and County Assessors' offices. One of the top emerging issues was the Split Roll Initiative (Proposition 15) that ultimately qualified for the November 2020 General Election. The BOE, County Assessors and other local government officials, industry and taxpayers shared concerns about the anticipated increase in workload and its impact on County Assessors' and BOE's workforce.

As an outcome of the Statewide Informational Hearings, the Board acted at the October 2019 Board Meeting, to establish a Board Members' Workforce Planning Workgroup¹ to investigate and provide recommendations to address the workforce challenges with recruitment, retention, compensation, and training facing County Assessors and the BOE necessary for the successful administration of property tax duties and functions, particularly in light of the heightened attention on the Split Roll Initiative (Proposition 15, November 2020).

After the onset of the COVID-19 Pandemic, the Board authorized the establishment of a Working Group consisting of two Board Members at its April 21, 2020, Board Meeting. The Working Group was charged with soliciting input from an inclusive group of stakeholders (County Assessors, Assessment Appeals Boards, taxpayer organizations, taxpayers and other stakeholders) regarding COVID-19 related issues and impacts on property tax deadlines, so that the Working Group could provide recommendations to the Board on actions to provide relief to those impacted during the next regularly scheduled Board Meeting (State Board of Equalization's COVID-19 Property Tax Relief Task Force²). The BOE COVID-19 Property Tax Relief Task Force convened on April 23, 2020, and reported its findings and recommendations to the full Board at the May 13, 2020, Board Meeting.

The Board's commitment to engage in collaborative discussions with stakeholders on emerging issues is demonstrated through the recent evolution of its Statewide Informational Hearings, and Work Group meetings. The actions have demonstrated the Board's leadership in public policy development, problem-solving, and addressing the needs of California's property tax administration and its workforce. The lessons learned from the evolution of the Board's informational and Work Group meetings are incorporated into the proposed Board Work Group implementation plan.

¹ *Workforce Planning Workgroup Structure:* The Workforce Planning Workgroup served as an advisory body charged with reporting its findings to the full Board. It was co-chaired by two Board Members, with BOE agency staff providing relevant data to the workgroup for consideration.

² *BOE COVID-19 Property Tax Relief Task Force Structure:* This Working Group consisted of two Board Members. The Working Group's meetings were held remotely, using video-conferencing technology systems. Meeting times, materials, and all meeting activities were handled by the two Member/co-chairs. Services from BOE's tax program, Legal Department, and Board Proceedings Division were not required.

Implementation Plan

Following adoption by the Board, the Board Work Groups would be included in the Board's Public Agenda Notices (PAN), the Board Proceedings agenda template, procedures, and documentation.⁶ Accordingly, the supporting documentation will reflect the Board's commitment to compliance with the Bagley-Keene Open Meeting Act and ensuring the Board's stakeholders and the public have a continued seat at the table.

Board Work Group Charter (Purpose and Objectives)

- The Board Work Group charter, if deemed necessary by the Board, would be developed in a similar manner as the Board's Governance Policy.

Work Group Guidelines

- The implementation and organization of the Board Work Group structure becomes official with the adoption of its guidelines. The guidelines regulate the procedures for each type of Work Group and its relationship with the full Board and the agency's program staff.

Board Work Groups would be comprised of two or more Board Members, and their designated Board Member staff, with specifically defined assistance from tax program technical advisors and legal consultation. As Board Work Groups contemplate more than two Members/participants, meetings will fully comply with the notice and agenda procedures of the Bagley-Keene Open Meeting Act.

- Board Work Groups serve as information gathering and advisory bodies to the full Board. They have no authority to act on behalf of the full Board. Board Work Groups are forums for discussions with County Assessors, Assessment Appeals Boards, other local government officials, and external stakeholders. Matters taken up by the Board Work Group are reported at the Board's next regular meeting, accompanied by a written report reflecting the Board Work Group's discussions, recommendations, and findings (Board Work Group meeting minutes).
- Board Work Groups would not replace BOE's Interested Parties' Processes, but may be supplementary or complementary, and serve as additional public forums for discussion and examination of complex and/or emerging matters.
- Board Work Groups would be scheduled based on the full Board's discussion and action to create the Board Work Group during the Board Meeting. The Board action will specify the Chair (or Co-Chairs) and members of the Board Work Group, the topic, the scope of the matters to be addressed, the timeframe for meeting schedules and reports, the objectives, and the desired outcomes of the Board Work Group (e.g. discussing and reviewing proposed legislation, discussing and recommending topics for new Board guidance). Board Work Groups may only discuss the items on its public meeting agenda.
- Board Work Group topics may be initiated by a Board Member (introduced as an L. agenda item), topics presented to the Board by program staff through scheduled agenda items, or when raised by external stakeholders through public comment (the Board may request an agenda item for consideration at a future Board Meeting). Through these pathways, Board Work Groups may be established to address emerging issues (e.g. Governor's Executive Order, state of emergency declaration, legislative need). The Board would determine if the Work Group should be convened as a regular Work Group (consisting of more than 2 Members and participants) or an Ad Hoc Board Work Group consisting of only 2 members, when urgent fact finding and multiple meetings are required to report back to the Board at the next regularly scheduled Meeting.

- Board Work Group meetings would be chaired and facilitated by the designated Board Member(s). Following Board action to schedule a Board Work Group meeting, the Chair(s) would develop the meeting plan, including the agenda, supporting material, and list of scheduled presenters; invite and schedule presenters and participants; arrange the location and facility, including public attendance and comment opportunities, as needed and/or appropriate; and prepare minutes of the meetings (capturing discussion items, speakers), and that will serve as a report back to the full Board. The completed meeting plan would be reviewed by the Executive Director, or designated staff, for legal and technical purposes, then transmitted to the Board Proceedings Division for public notice posting.
- Board Work Group meetings may be scheduled adjacent to a regular Board Meeting or may be scheduled at a different time, based on the urgency or importance of the matter. Approval of the full Board would be required. This Board action/decision would include cost estimates. If scheduled adjacent to a regular Board meeting, a Board Work Group meeting may be supported by the Board Proceedings Division, subject to the regular Board meeting timing and procedural considerations.
- Following the adjournment of the Board Work Group meeting, the Member serving as Chair (or the Member's staff), would prepare the meeting minutes and complete the related meeting minutes tasks (compiling any material received or reports needed for the full Board's consideration). The draft minutes would be submitted to the Board Work Group Chair(s) and the Executive Director for approval, then submitted to the full Board for final approval at a regularly scheduled Board Meeting. The final version would be transmitted to the Board Proceedings Division Chief for posting to the BOE website and to serve as the material for the Board Workgroup Report to the full Board. The Work Group's schedule of updates and reports to the full Board would occur at the direction of the Board. The Board would determine and publicly announce the conclusion and final adjournment of the Board Work Group, including the outcomes and/or Board decisions supported by the Board Work Group's efforts.
- All Board Work Group agendas, minutes, material, and other public meeting artifacts would be transmitted to the Board Proceedings Division and the Executive Director, timely and compliant with Board Proceedings procedures and public meetings requirements.^H
- Board Work Groups would abide by and be compliant with all other Board Proceedings procedures, the Board's Governance Policy, and all relevant law.

Board Hearing and Consideration of Board Work Group Recommendations

Following the adjournment of a Board Work Group meeting, the Board Work Group's Chair, or their designee, would present their report and recommendations to the Board, at the Board Meeting specified in the Board Work Group's authorized meeting plan. The Board Work Group Chair, utilizing Board Proceedings Division's processes for regular Board Meetings, would submit their material and presentation details to the Board Proceedings Division Chief, to be included in the Public Agenda Notice (PAN) for the regular Board Meeting.

The Work Group's public presentation may include the stakeholders who participated in the Work Group meetings.

The Board's Chair would take up the Work Group's item, following the regular meeting protocol for items on the Board agenda. The Board would receive the presentation, engage in discussion on the matter, and take public comment or testimony. The Board's motion and

actions to adopt, amend, or not approve the recommendation would be done in accordance with *Robert's Rules of Order* and Board policies. The Board's actions could result in assignments to another Board Work Group or to the Executive Director.

Procedures (Processes, Operational Policies, and Parliamentary Procedure)³

- Meeting notices (Public meetings vs Ad Hoc sessions)
- Agendas
- Minutes
- Material, in compliance with ADA requirements
- *Robert's Rules of Order*
- Public Access and Comments
- In-person and/or Remote Meeting Protocols
- Bagley-Keene Open Meeting Act
- Public Participation
- Public Testimony
- Speakers
- Order of Business
- Conduct

Conclusion

The Board Work Groups, like the prior committee structure, are valuable forums for public discussion on complex matters and emerging issues of significance to property tax administration. This structure would provide an additional channel of transparent communications with taxpayers, stakeholders, and state and local officials.

Recommendation

I recommend the Board take action to establish a Board Work Group structure, based on the proposed implementation plan, and that the Board convene a Board Work Group to develop its Charter for presentation to the Board at a specified future Board Meeting, as you deem appropriate.

Additionally, I recommend that the Board authorize a revision to the Board's Public Agenda Notice (PAN) template to memorialize the official establishment of the Board Work Group structure as a recurring agenda item.

BF:ah

cc: Ms. Kari Hammond
Mr. Gary Gartner
Mr. Matt Cox
Ms. Regina Evans
Ms. Yvette Stowers
Mr. Henry Nanjo
Ms. Catherine Taylor

³ Concepts are leveraged from existing Board Proceedings' processes, policies and procedures and are in compliance with the Bagley Keene Open Meeting Act. See generally State Board of Equalization, [Board Meeting Reference Manual](#), Publication 311 (December 2020).

^A Committees are created consistent with Gov. Code, section 11121, and such committee meetings are held in compliance with the Bagley-Keene Open Meeting Act. (See Gov. Code, section 11120 et seq.)

^B The *Legislative Committee* was primarily comprised of the Board Members of the State Board of Equalization where they would discuss and determine suggestions of legislation to be sponsored or supported by the Board. While it would vary based on the legislative schedule of any year, on average this committee met four times a year.

The *Customer Service and Administrative Efficiency Committee (CSAE)* was comprised of Board Members and staff. The committee would evaluate proposals to modernize the administrative practices of the agency and consider issues relating to the BOE's responsibility to assist taxpayer understanding and compliance with tax laws and reporting requirements. To meet those goals, the committee would meet on average 4-6 times a year to hear reports on administrative efficiencies, education and outreach, equal employment opportunity, customer service, e-services, and Taxpayer Bill of Rights Hearings.

The *Business Taxes Committee (BTC)* considered issues relating to sales and use tax law and special taxes and fees laws. This committee would hear proposed regulations, proposed changes to regulations, proposals for staff to begin the Interested Parties' Process, and proposed revisions to staff manuals.

The *Property Tax Committee's (PTC)* focus was to promote uniform and consistent property tax assessment and administration by providing guidance to County Assessors and their staff and other practitioners through Assessors' Handbook, property tax rules, and other written guidance. Given the PTC's needed interaction with stakeholders and experts on a regular basis to discuss and vet items, the committee formalized their structure through a PTC Procedures Manual. The PTC Chair would work with Property Tax Department staff, the Legal Department, and the Board Proceedings Division to determine the PTC Work Plan for the ensuing year and related agenda items. As issue papers, Interested Parties Processes, and other staff work endeavors can result in a lengthy work process prior to presentation before the full Board, the PTC often served as a point for interim reporting or briefing prior to introduction of a finished report or issue paper to the Board Members. Committee members would then decide on recommendations to the full Board for final actions.

^C The Board produced detailed committee handbooks to ensure procedural transparency and conformity to the Bagley-Keene Open Meeting Act. Additionally, BOE staff memorialized committee procedures in the Board Meeting Reference Manual (Publication 311).

^D Assembly Bill 102, "Taxpayer Transparency and Fairness Act of 2017", stats. 2017, ch 16.

^E To avoid conflict with (now) Gov. Code, section 15600 (h)(1).

^F Gov. Code, section 15600 et seq.

^G Consistent with the Board's historic practice, a handbook on "Board Work Groups" and/or a chapter within the Board Meeting Reference Manual could memorialize the Board's rules of engagement and procedures to ensure transparency and access to the public is maintained.

^H See Gov. Code, sections 15605 and 11120 et seq.